

# **EXHIBIT A**

DREIER LLP  
499 Park Avenue  
New York, New York 10022  
Steven E. Fox (SF 5432)  
Anthony B. Stumbo (AS 9374)  
Tel. (212) 328-6100

DREIER LLP  
One Landmark Square  
Stamford, Connecticut 06901  
Joseph M. Pastore III  
Earl T. Ormond  
Tel. (203) 425-9500

Counsel for the Debtor

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re: \_\_\_\_\_X

DUCKY INTERACTIVE, INC.,

Debtor

Chapter 7  
Case No. 05-23457 (ASH)

\_\_\_\_\_  
X

**DECLARATION OF SCOTT B. HOCKLER**

I, Scott B. Hockler, declare under the penalty of perjury:

1. I reside at 12 Penwood Road, Mount Kisco, New York. Unless otherwise stated in this declaration, I have personal knowledge of the facts hereinafter set forth. I state that I have now ordered the bank accounts at issue in this matter for the third time. I provide the details below.

2. On or around April 17, 2006 I was served with a Subpoena for Rule 2004 Examination ("the Subpoena") by the law firm of Neubert, Pepe & Monteith, PC, on behalf of Saylavee, LLC ("Saylavee"), requesting that I produce documents in the above captioned action. Pursuant to that certain "Substitute Order Authorizing Examination of

Ducky Interactive, Inc. Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure”, dated November 8, 2005 (“2004 Exam Order”), the Court designated me, Scott B. Hockler (“Hockler”) as the “representative” of Ducky Interactive, Inc. (“Ducky”) for purposes of appearing at the subject examination. This Declaration is therefore submitted on behalf of myself as well as in my capacity as Court-designated “representative” of the Ducky solely for these limited purposes.

3. I and/or Ducky have been in several exhaustive and abusive litigations with Saylavee and its principal Steven Lichtman (“Lichtman”). See Saylavee, LLC and Steven Lichtman v. Scott B. Hockler, D/B/A Ducky Interactive, Inc. and Ducky Interactive, LLC, 3:04-CV-1344 (the “1344 action”), Ducky Interactive, Inc. and Scott B. Hockler v. Saylavee, LLC and Steven Lichtman, 3:04-CV-1500 (the “1500 action”), and Hockler v. Lichtman, FST-CV-05-40002987 (the “State Court Action”).

4. After reviewing the documents requests in this Subpoena, I realized that I had previously provided these documents to the law firm of Pullman & Comley last year when that firm represented Saylavee.

5. Despite the additional copying and shipping expenses, and prior production to Pullman & Comley, I again agreed to produce another entire set of additional documents for Saylavee’s new counsel, Nuebert, Pepe and Monteith. These were given to opposing counsel in May of 2006.

6. During my search in May of 2006, I discovered some additional documents that I had not previously produced and immediately notified my attorney to produce these to opposing counsel. These were turned over in May of 2006.

7. At a hearing held on September 28, 2006, Judge Hardin ordered all bank statements related to Ducky to be produced. My counsel tried to explain that these statements have been previously produced on several occasions and/or the passwords disclosed to the Trustee.

8. More specifically, I previously produced for Trustee Sapir bank statements from Citibank on October 7, 2005. Attached hereto as Exhibit "A" is the October 7, 2005 fax cover sheet to Trustee Sapir, along with Citibank statements. On October 3, 2005 I also provided Trustee Sapir with passwords and other information needed to access the account information for Fleet/Bank of America account for Ducky Interactive, Inc. online. I then again provided the passwords and other information needed to access these accounts on September 12, 2006. Attached as Exhibit "B" are my counsel's letters enclosing on two separate occasions the passwords needed to access the account. Thus, I provided all the information that the Trustee needs over a year ago.

9. Citibank and Fleet/Bank of America are the only banks I am aware of that have bank statements related to Ducky and/or the exercise studios. Upon information and belief, during his pre-bankruptcy association with the exercise studios in question, Lichtman opened bank accounts for the exercise studios. I am unaware as to the identity or location of the accounts or institutions where the subject accounts were maintained, and I have no access or control over those accounts.

10. Nevertheless, as a result of Judge Hardin's ruling, I again went to Citibank and Bank of America to request bank statements related to Ducky Interactive Inc.



11. On September 28, 2006 I was told by Bank of America that these bank statements will be available early next week. I have attached a copy of this letter to this declaration. (Attached as Exhibit "C").

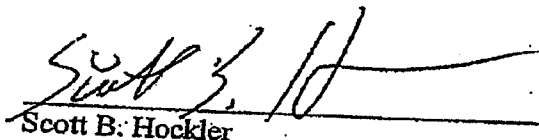
12. On September 28, 2006 I was told by Citibank that this request will take up to 10 business days to process. I have attached a copy of this letter to this declaration. (Attached as Exhibit "D").

13. Subsequent to the commencement of this Chapter 7 case, I handed the keys to the exercise studios to Trustee Sapir in 2005, per his express instructions. Many of the business records of the studios were at the studio at this time.

14. Lichtman and/or Saylavee or their affiliates purchased the assets of two of the three exercise studios. It is my understanding that the records remained at the premises at the time of said sale, and therefore were available to Lichtman and/or Saylavee. To the extent these records were left at the premises, they are not available to me and I am unable to make any production thereof. All responsive documents that were available to me or my counsel have otherwise been produced, as noted above.

Pursuant to 28 U.S.C. § 1746, I declare, under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on October 4, 2006.

  
Scott B. Hockler

# **EXHIBIT B**

DREIER LLP  
499 Park Avenue  
New York, New York 10022  
Steven E. Fox (SF 5432)  
Anthony B. Stumbo (AS 9374)  
Tel. (212) 328-6100

DREIER LLP  
One Landmark Square  
Stamford, Connecticut 06901  
Joseph M. Pastore III  
Earl T. Ormond  
Tel. (203) 425-9500

Counsel for the Debtor

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
In re:

DUCKY INTERACTIVE, INC.,  
  
Debtor

Chapter 7  
Case No. 05-23457 (ASH)

-----X

**SUPPLEMENTAL DECLARATION OF SCOTT B. HOCKLER**

I, Scott B. Hockler, declare under the penalty of perjury:

1. I reside at 12 Penwood Road, Mount Kisco, New York. Unless otherwise stated in this declaration, I have personal knowledge of the facts hereinafter set forth. I make this Supplemental Affidavit in a continuing effort to provide complete and full compliance with any and all obligations under the Subpoena for Rule 2004 Examination ("the Subpoena") by the law firm of Neubert, Pepe & Monteith, PC, on behalf of Saylavee, LLC ("Saylavee") dated April 17, 2006, as that compliance has been defined by counsel to Saylavee.

2. I state that I have now ordered all the bank account statements that I am aware of at issue in this matter. I provide the details below.

3. On or around April 17, 2006, I was served with the Subpoena requesting that I produce documents in the above captioned action. Pursuant to that certain "Substitute Order Authorizing Examination of Ducky Interactive, Inc. Pursuant to Rule 2004 of the Federal Rules of Bankruptcy Procedure", dated November 8, 2005 ("2004 Exam Order"), the Court designated me, Scott B. Hockler ("Hockler") as the "representative" of Ducky Interactive, Inc. ("Ducky") for purposes of appearing at the subject examination. This Declaration is therefore submitted on behalf of myself, as well as in my capacity as Court-designated "representative" of Ducky solely for these limited purposes.

4. On October 4, 2006 I submitted a declaration to the Court regarding production of bank statements requested by Saylavee in this case. At this time I also have additional information that I would like to submit to the Court.

5. The only bank accounts that I am aware of, maintained by Ducky for the five years prior to commencement of the bankruptcy are Citibank account number 95322108 and Fleet/Bank of America account number 0095 0107 5861.

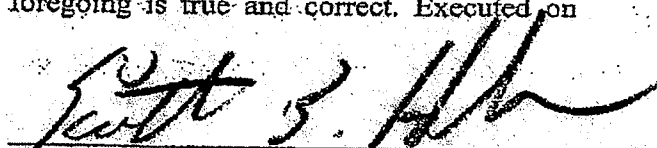
6. As ordered by the Court, I have asked the Bank of America to provide statements for account number 0095 0107 5861 for three (3) years prior to the commencement of bankruptcy. In addition I have also asked Bank of America to produce copies of canceled checks, check registers, and signature cards requested by Saylavee. The Bank of America Account did not go back three (3) years because it did not exist for three (3) years.



7. As ordered by the Court I have asked Citibank to provide all statements from Citibank account number 95322108 for three (3) years prior to the commencement of the bankruptcy. In addition, I have also asked Citibank to produce copies of canceled checks, check registers, and signature cards requested by Saylavee. I am told that these items will cost \$5.00 per item. I have been told by Citibank that the estimated costs of obtaining copies of these items may be in excess of \$8,000. Citibank requires that these fees be paid in advance prior to their search for any items. My attorneys have requested that Saylavee and/or Lichtman advance these costs. I understand that Saylavee's counsel has refused.

8. Steven Lichtman ("Lichtman") and/or Saylavee or their affiliates purchased the assets of two of the three exercise studios. It is my understanding that the records remained at the premises at the time of said sale, and therefore were available to Lichtman and/or Saylavee. To the extent these records were left at the premises, they are not available to me and I am unable to make any production thereof. All responsive documents that were available to me or my counsel have otherwise been produced, as noted above.

Pursuant to 28 U.S.C. § 1746, I declare, under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 20, 2006.



Scott B. Heckler

# **EXHIBIT C**

Louis J. Testa (LT2213)  
 Neubert, Pepe & Monteith, P.C.  
 195 Church Street, 13<sup>th</sup> Floor  
 New Haven, Connecticut 06510  
 Tel. 203.821.2000 / Fax 203.821.2008  
 Counsel to Saylavee, LLC

UNITED STATES BANKRUPTCY COURT  
 SOUTHERN DISTRICT OF NEW YORK

	X	
In re:	:	
	:	CHAPTER 7
DUCKY INTERACTIVE, INC.,	:	
	:	CASE NO. 05-23457 (ASH)
Debtor	:	
	X	

**ORDER GRANTING JUDGMENT**

Saylavee, LLC ("Saylavee") having moved for (a) an Order of Contempt Pursuant to Rule 9016 Fed. R. Bankr. P. and Rule 45(e) F. R. Civ. P. and (b) Imposition of Sanctions in this case,

Upon reading and filing the Motion (a) for Order of Contempt Pursuant to Rule 9016 Fed. R. Bankr. P. and Rule 45(e) F. R. Civ. P. and (b) Imposition of Sanctions dated January 5, 2007 ("Motion") together with the exhibits annexed thereto (Doc. No. 68), the Affidavit of Louis J. Testa sworn to January 5, 2007 in support thereof, Debtor's opposition to Saylavee's Motion for Contempt together with the exhibits annexed thereto dated February 9, 2007 (Doc. No. 71), the Supplemental Affidavit of Louis J. Testa in Support of Motion (a) for an Order of Contempt Pursuant to Rule 9016 Fed. R. Bankr. P. and Rule 45(e) F. R. Civ. P., (b) Imposition of Sanctions sworn to the 12<sup>th</sup> day of February, 2007 (Doc. No. 72) together with the exhibits annexed thereto, together with due proof of service of each of the foregoing documents, and this matter having come on for further hearing before this Court on February 13, 2007, (c) Debtor's Opposition to Motion for Contempt together with exhibits annexed thereto filed with this Court on February 9, 2007, and (d) Debtor's Memorandum in Opposition to Motion Seeking an Order

of Contempt together with exhibits annexed thereto filed on May 8, 2007, the Affidavit of Louis J. Testa, Esq. sworn to the 14<sup>th</sup> day of June, 2007 together with the exhibits annexed thereto, the Order of this Court dated June 1, 2007 (Doc. No. 90) ("Sanctions Order"), and due deliberation having been had hereon and good and sufficient cause appearing,

Now, upon Motion of Saylavee, LLC by its counsel, Neubert, Pepe & Monteith, P.C. (by Louis J. Testa, Esq.) it is hereby

ORDERED, that pursuant to the terms and provisions of the Sanctions Order judgment is hereby awarded in favor of Saylavee, LLC, 15 East Putnam Avenue, Suite 431, Greenwich, Connecticut 06830 and against Scott B. Hockler, 12 Penwood Road, Mt. Kisco, New York 10549 in the amount of \$18,000.00 and that Saylavee is hereby authorized and permitted to undertake enforcement hereof.

Dated: White Plains, NY  
June 21, 2007

/s/ Adlai S. Hardin, Jr.  
Hon. Adlai S. Hardin, Jr.  
United States Bankruptcy Judge  
Southern District of New York

Enter

# **EXHIBIT D**

# DREIER<sup>LLP</sup>

ATTORNEYS AT LAW

---

The Traub Group

Steven E. Fox *Partner*  
Direct 212 652 3742  
sfox@dreierllp.com

June 26, 2007

**VIA FEDERAL EXPRESS**

Honorable Adlai S. Hardin, Jr.  
United States Bankruptcy Judge  
United States Bankruptcy Court  
300 Quarropas Street  
White Plains, New York 10601

Re: Ducky Interactive, Inc., Debtor; Case No. 05-23457 (ASH)

Dear Judge Hardin:

As your Honor will recall, this firm represents Scott B. Hockler ("Mr. Hockler"), the Court-appointed representative of Ducky Interactive, Inc. in connection with certain Rule 2004 Examination matters being conducted by Saylavee, LLC ("Saylavee") in the above referenced matter.

We have recently learned that this Court has entered an Order, dated June 22, 2007, granting Saylavee's Request for Entry of Judgment against Scott B. Hockler in the amount of \$18,000 (the "June 22 Order"), which in turn related to the Court's June 1, 2007 Order (the "June 1 Order") imposing certain sanctions upon Mr. Hockler.

As the Court may not have been aware, on June 11, 2007 Mr. Hockler filed a Notice of Appeal from the Court's June 1 Order (the "Appeal"). See Notice of Appeal, attached as Exhibit A. Contemporaneous with the filing of the Notice of Appeal, Mr. Hockler also filed a motion with this Court seeking a stay of the June 1 Order pending resolution of the Appeal. Your Honor's Chambers has set that motion for a hearing on July 18, 2007 at 9:45 a.m. See Motion to Stay, attached as Exhibit B. Mr. Hockler has since timely filed his Designation of Record on Appeal and Statement of the Issues, dated June 21, 2007, in the Appeal. See Designation, attached as Exhibit C.

We respectfully submit that the entry by this Court of the June 22 Order, coming after the timely filing of the Notice of Appeal, was improper and should be vacated under applicable authorities in this and other jurisdictions, as the commencement of the Appeal acts to divest this Court of jurisdiction in connection with matters that are the subject of the Appeal. See, e.g., In re Winomo Realty Corp. v. City of Albany, et al., 270 B.R. 99 (S.D.N.Y. 2001) (citing United States v. Rodgers, 101 F.3d 247, 251 (2d Cir. 1996))

499 Park Avenue New York, New York 10022  
Telephone 212 328 6100 Facsimile 212 328 6101  
Los Angeles · Stamford · Albany  
www.dreierllp.com

Honorable Adlai S. Hardin, Jr.  
United States Bankruptcy Judge  
June 26, 2007  
Page 2 of 2

(filing a notice of appeal has the effect of divesting a lower court of jurisdiction over all issues involved in the appeal)).

Separately, the Court should also be aware that Mr. Hockler and Ducky Interactive, Inc. (the "Debtor") and Mr. Jeffrey Sapir, Esq., Court-appointed Trustee for the Debtor's estate ("Trustee Sapir"), recently entered into a Settlement Agreement on the principal at issue in this bankruptcy. See Settlement Letter, attached as Exhibit D. Trustee Sapir filed this Settlement Agreement with the Court for approval on June 25, 2007. From Mr. Hockler's perspective, the entry of the June 22 Order prior to the resolution of the appellate issues, risks significant interference with the parties' progression towards the parties' consummation of the negotiated comprehensive settlement in this matter.

For the foregoing reasons, Mr. Hockler respectfully requests that this Court vacate the June 22 Order, and, alternatively, enter a judgment granting Mr. Hockler's Motion to Stay Pending Appeal, filed June 11, 2007.

Respectfully submitted,



Steven Fox

cc: Joseph M. Pastore III, Esq.  
Earl T. Ormond, Esq.  
Mr. Scott Hockler  
Doug Skalka, Esq.  
Louis Testa, Esq.

ORDERED:

BOTH REQUESTS IN THE FINAL PARAGRAPH OF THIS LETTER ARE DENIED.

s/ Adlai S. Hardin, Jr.  
United States Bankruptcy Judge

# **EXHIBIT E**





September 28, 2006

Dear Sir or Madam:

Please be advised that Scott Hockler has ordered statements for Ducky Interactive. These statements will be available early next week. If there are any questions, please feel free to call me at 203-629-4022.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized loop followed by a horizontal line extending to the right.

Jonathan Schmid  
Vice-President  
Banking Center Manager

Recycled Paper

# **EXHIBIT F**



Citibank, N.A.  
66 South Moger Avenue  
Mount Kisco, NY 10549

September 28, 2006

To Whom It May Concern:

Mr. Scott Hockler today requested bank statements from January 2004 to January 2006 on the Ducky Interactive Inc. account. The request will take up to 10 business days to process.

I will notify him when they are received.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard Vecchione".

Richard Vecchione  
Business Banking Officer

# **EXHIBIT G**

JEFFREY L. SAPIR  
ATTORNEY AT LAW

JODY L. KAVA\*  
\*ADMITTED IN NY & CT

NOV 27 2006

399 KNOLLWOOD ROAD  
SUITE 102  
WHITE PLAINS, NY 10603  
(914) 328-7272  
FAX (914) 328-8608

E-MAIL ADDRESS  
info@sapirlaw.com

November 22, 2006

Drier LLP  
One Landmark Square  
20<sup>th</sup> Floor  
Stamford, Conn. 06901  
Att: Earl T. Ormond, Esq.

Re: Ducky Interactive Inc.  
Case No. 05-23457

Dear Mr. Ormond:

In response to your faxed letter of November 20, 2006, be advised that my photo machine was fixed late yesterday, so the first opportunity to send you the document was today. As such I enclose copies of 191 checks. In addition, I enclose copies of checks not turned over but picked up at the premises (copies starting with 2081 and ending at 2240)

Your suggestion of making copies at a copy center and sending them by Federal Express is a good one. However, your client did not offer to pay for my time and expense of doing same. The bankruptcy estate cannot bear the expense of your client's obligation. I am doing your client the favor.

In response to your characterization of the words used by opposing counsel as sparse or negligible to show the amount of checks turned over is inappropriate. I think sparse and negligible gives your client credit for turning over some documents. Considering all the transactions on the bank statements the documents were sparse to say the least. Not one checkbook was turned over to the trustee

I hope I have saved Mr. Hockler some money by assisting him with the enclosed copies.

Very truly yours,

Jeffrey L. Sapir

SH 2639

# **EXHIBIT H**

## WITHDRAWAL

JD-CV-41 Rev. 10-01

STATE OF CONNECTICUT  
SUPERIOR COURT  
www.jud.state.ct.us

DOCKET NO. X05CV054002987-5
RETURN DATE

## COMPLETE ALL SECTIONS BELOW

NAME OF CASE (FIRST-NAMED PLAINTIFF VS. FIRST-NAMED DEFENDANT)

Hickler v. Lichtman

☒ Judicial District    ☐ Housing Session    ☐ G.A. No.

ADDRESS OF COURT (No. street, town and zip code)

Stamford (123 Hoyt Street)

SECTION I: THIS WITHDRAWAL IS BEING FILED BECAUSE THE DISPUTE HAS BEEN RESOLVED

## I. COURT-ANNEXED ADR

- 411088 ☐ Early Intervention  
 411089 ☐ Early Neutral Evaluation  
 411090 ☐ Attorney Trial Referee  
 411091 ☐ Fact-Finding  
 411093 ☐ Arbitration  
 411094 ☐ Mediation  
 411095 ☐ Special Masters  
 411096 ☐ Summary Jury Trial

## II. COURT INTERVENTION

- 411098 ☐ Pretrial Conference  
 411099 ☒ Trial Management Conference  
 411100 ☐ Commencement of Trial (court trial - first witness sworn;  
 jury trial - trial jurors sworn)

## III. PRIVATE ADR

411102 ☐ Provider Name: \_\_\_\_\_

## IV. OTHER

- 411103 ☐ Discussion of Parties on Their Own  
 415602 ☐ Unilateral Action of Party(ies)

SECTION II: WITHDRAWAL

(Do not check the following two boxes if any intervening complaints, cross complaints, counterclaims, or third party complaints remain pending in this case. See below for partial withdrawal of action.)

- (WDACT) ☒ The Plaintiff's action is WITHDRAWN AS TO ALL DEFENDANTS without costs to any party.  
 (WBOARD) ☐ A judgment has been rendered against Defendant(s): \_\_\_\_\_

## DISPOSITIVE

OR FCCS

and the Plaintiff's action is WITHDRAWN AS TO ALL REMAINING DEFENDANTS without costs.

## PARTIAL

- The  
 (WDCOMP) ☐ Complaint  
 (WDCOUNT) ☐ Counts of the complaint:  
 (WDINTCO) ☐ Intervening Complaint  
 (WDTHPC) ☐ Third Party Complaint  
 (WAPPCOM) ☐ Apportionment Complaint  
 (WDCS) ☐ Cross Complaint (cross claim)  
 (WOC) ☒ Counterclaim with prejudice without costs to any party  
 (WOAAP) ☐ Plaintiff(s): \_\_\_\_\_ only w/o costs  
 (WOAAD) ☐ Complaint against defendant(s): \_\_\_\_\_  
☐ Other: \_\_\_\_\_

in the above entitled action is withdrawn.

## SIGNATURE REQUIRED

Plaintiff Scott B. Hickler

By

Timothy G. Patten

Attorney

Plaintiff

By

Timothy G. Patten

Attorney

Defendant

By

Timothy G. Patten

Attorney

Defendant

By

Timothy G. Patten

Attorney

NAME &amp; ADDRESS OF SIGNER:

Timothy G. Patten

Timothy G. Patten

I hereby certify that a copy was mailed/delivered to all counsel and pro se parties of record on:	DATE	SIGNED (Individual attorney or pro se party)	PHONE NO. (Area code first)
	11/21/05	X Timothy G. Patten	203-465-9500
NAME OF EACH PARTY SERVED *		ADDRESS AT WHICH SERVICE WAS MADE *	
Tim Roman, Pullman & Conley		IN person BY HAND	

\* If necessary, attach additional sheet with names of each party served and the address at which service was made.

# **EXHIBIT I**



10/5/2005

Saylavee v. Hockler

Hearing

Page 1

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

SAYLAVEE, LLC, and STEVEN LICHTMAN )  
Plaintiff ) 3:04CV1344 (CFD)  
VS ) October 5, 2005  
Defendant ) Federal Building  
SCOTT HOCKLER and DUCKY INTERACTIVE, )  
INC. and DUCKY INTERACTIVE, LLC. ) Hartford, Connecticut

PREJUDGMENT REMEDY HEARING HELD BEFORE  
THOMAS P. SMITH, U.S.D.J.

Wendy J. Allen, RPR  
Brandon Smith Reporting Service  
44 Capitol Avenue  
Hartford, CT 06106  
(860) 549-1850

Brandon Smith Reporting

57fb2524-2a3c-4ecc-8c0b-2dc800d79120

Saylavee v. Hockler

10/5/2005

Hearing

<p style="text-align: right;">Page 78</p> <p>1 Saylavee for any negative comments to exercise teachers  2 about Mr. Lichtman?  3 A Yes, I believe I was.  4 Q Ms. Glatzer, are you still in a lawsuit with  5 Saylavee, LLC, the plaintiff in this action?  6 A Yes, I am.  7 Q Ms. Glatzer, you were shown Defendant's  8 Exhibit I, which was a complaint that I caused to be  9 served on you on behalf of Saylavee. Do you have that  10 in front of you?  11 A Yes, sir, I do.  12 Q Do you recall letters that I sent to you  13 before that action was filed concerning the subject  14 matter of the action which was the transfer of your  15 interest in the Mount Kisco studio to Saylavee, LLC, my  16 client?  17 A I recall e-mails or letters, yes.  18 Q Do you recall that those letters were sent to  19 you by Federal Express but you didn't respond to me in  20 response to those letters?  21 A Probably because I was given counsel not to.  22 Q Who gave you the counsel not to respond to my  23 letters, the pre-lawsuit letters, ma'am? Just the name  24 of the attorney who gave you that, not the substance.  25 A I don't recall.</p>	<p style="text-align: right;">Page 80</p> <p>1 You were sworn previously and you remain  2 under oath, sir.  3 Begin your cross-examination, Mr.  4 Pastore.  5  6 CROSS-EXAMINATION BY MR. PASTORE:  7  8 Q Good afternoon, Mr. Lichtman.  9 A Good afternoon.  10 Q Is it correct that Saylavee has sued Ms.  11 Glatzer twice?  12 A Yes,  13 Q And the second time was after a release was  14 given to her?  15 A The events that took place that are the  16 subject of the second suit took place after the release.  17 Q So the release was given and then the second  18 suit was filed against Ms. Glatzer?  19 A For events that happened subsequent to the  20 release.  21 Q Do you have the exhibits that you testified to  22 earlier up there, sir?  23 A I believe I do, yes. At least some of them.  24 Q Now, it's correct, sir, that for a period of  25 time you worked in connection with the Connecticut</p>
<p style="text-align: right;">Page 79</p> <p>1 Q Did Mr. Hockler ever tell you not to respond  2 to my letters?  3 A No, he did not.  4 Q You never responded to my letters and then you  5 got served with that first lawsuit, correct?  6 A I thought the lawsuit - didn't the lawsuit  7 come - you know what, I've been through so much with  8 these two people, I absolutely don't remember what came  9 first. I really don't.  10 Q Do you recall retaining the services of an  11 Attorney Gary Klein after the lawsuit was filed?  12 A Yes.  13 Q How soon was the lawsuit resolved after you  14 retained the services of Mr. Klein?  15 A Very quickly. Very quickly.  16 MR. RONAN: No further questions, Your  17 Honor.  18 THE COURT: Thank you. Mr. Pastore.  19 MR. PASTORE: No further questions, Your  20 Honor.  21 THE COURT: Thank you, Ms. Glatzer, you  22 may step down.  23 MR. PASTORE: May we return to Mr.  24 Lichtman for cross?  25 THE COURT: Yes. Mr. Lichtman.</p>	<p style="text-align: right;">Page 81</p> <p>1 studios?  2 A Yes.  3 Q And during that time is it, in fact, correct  4 that you had certain bills transferred into the name of  5 Saylavee for those Connecticut studios?  6 A Yes.  7 Q And certain bills transferred into the name of  8 Bodyfit for those Connecticut studios?  9 A That was the name of those studios at that  10 point.  11 Q And that you effectuated or caused people to  12 effectuate the change of the billing address for the  13 studios, sir, the change of the billing entity for these  14 studios?  15 A I'm sorry, can you repeat that again?  16 Q Sure. You told the water company, for  17 example, no longer bill Ducky Interactive, Inc., bill  18 Saylavee for the water bill.  19 A Everything was sent to Bodyfit to my office  20 for bills to be paid during that time.  21 Q So sir, turning to Exhibits 1, 2, 3 and 4,  22 it's fair to say that the AmEx bills put into the name  23 of Saylavee, LLC, Bodyfit, New Canaan, that was done by  24 you?  25 A During the three month period or so that I was</p>

21 (Pages 78 to 81)

Brandon Smith Reporting

57fb2624-2a3c-4acc-8c08-2dc800d79120

Saylavee v. Hockler

10/5/2005

Hearing

Page 174	Page 176
<p>1 MR. PASTORE: Move this as a full 2 exhibit. 3 THE COURT: Okay, and generically what do 4 you say this is, Mr. Pastore? 5 MR. PASTORE: It's an e-mail, subject, 6 ad. 7 THE COURT: Okay. From whom to whom? 8 MR. PASTORE: From Eve Taben, T-A-B-E-N, 9 to Steve Lichtman, cc, Duck2232@aol.com and Stone, Pam. 10 THE COURT: Okay. Offered as a full 11 exhibit? 12 MR. PASTORE: Yes, Your Honor. 13 MR. RONAN: No objection subject to the 14 clarification that it contains an embedded e-mail that's 15 dated April 18 from Eve Taben to Steve Lichtman. 16 MR. PASTORE: I apologize. Yes, Your 17 Honor. 18 THE COURT: Okay. 19 How are we rolling, Mr. Pastore? 20 MR. PASTORE: I have outline that's 40 21 pages long, I'm on page 30, so I would say another half 22 hour. Maybe a lot of the end is stuff that probably 23 gets buzzed through. 24 THE COURT: This is the point at which we 25 normally take our mid-afternoon break, so 3:30, I</p>	<p>1 teachers? 2 A No. 3 Q That you sent a woman by the name of Erica 4 home crying on several occasions? 5 A No. 6 Q Isn't it in fact true that you yelled at 7 customers? 8 A Never. 9 Q That you sent a customer by the name of Susan 10 Berger out crying from the studios? 11 A Scott had a problem with Susan Berger and 12 called her to ask her not to come back to the studio. 13 Q And you didn't cause her to leave crying? 14 A And she asked for a return call from someone, 15 it actually happened with other people present, and that 16 was that. I had nothing -- I had no idea who Sue Berger 17 was, still have never met her. 18 Q Ms. Glatzer testified earlier today that you 19 had a demeaning way of treating teachers. Is that true? 20 A No, it's not true. 21 Q Do you believe you were demeaning in any way 22 in your discussions with Ms. Stone, for example? 23 A Ms. Stone had nothing to do with anything that 24 I had created here other than the fact that she was 25 going to be selling these businesses for a great deal of</p>
Page 175	Page 177
<p>1 suggest we take our break until 3:45, and we'll resume 2 then. 3 MR. PASTORE: And I will move as 4 expeditiously as I can. 5 THE COURT: That's fine, take your time, 6 Mr. Pastore. 7 (Recess.) 8 THE COURT: Afternoon. Please be seated. 9 Mr. Pastore, let's begin. 10 BY MR. PASTORE: 11 Q Sir, isn't it in fact true that at the outset 12 of your relationship with Ducky and/or Mr. Hockler that 13 there was no discussion of an operating agreement? 14 A No. 15 Q Didn't you testify at the bankruptcy 16 proceeding that initially you didn't really care about 17 an agreement, over time you became more concerned and 18 started to demand an agreement? 19 A I didn't care that an agreement wasn't present 20 and signed when I started working with him. That didn't 21 mean that I didn't care about it. 22 Q Sir, isn't it in fact true that your behavior 23 at the exercise studios was becoming a problem? 24 A No. 25 Q Isn't it in fact true that you would yell at</p>	<p>1 money because this is what her job was. My agreement 2 was with Scott, it had nothing to do with Pam, and all 3 of a sudden Pam interjected herself into this a month or 4 six weeks in, and Scott kept telling me, don't worry 5 about Pam, have nothing to do with Pam. 6 Q Why is it, then, that you're now threatening 7 to sue her? 8 A Because Pam made representations at the 9 bankruptcy hearing that she was not, she does not sell 10 businesses for a living or have anything remotely to do 11 with everything that she claimed to do that, you know, 12 helped to induce me into getting involved with Scott. 13 Q She testified she works for an investment 14 bank, correct, sir? 15 A Yes. 16 Q And you have sent her through your counsel, 17 have sent inquiry as to whether or not we would be 18 willing to accept service for a new lawsuit against her 19 that you intend to initiate? 20 A I don't know what my lawyer has sent you. 21 Q Have you directed your lawyer to make 22 inquiries concerning a lawsuit against Ms. Stone? 23 A That is something that is possible. 24 Q Even though you say she had nothing to do with 25 the businesses?</p>

45 (Pages 174 to 177)

Brandon Smith Reporting

57fb2524-2a3c-4ecc-8c08-2dc800d79120

Saylavee v. Hockler

10/17/2005

Hearing

Page 340	Page 342
<p>1 correspondence I'll ferret out, I apologize for that. 2 THE COURT: That's all right, you take 3 your time. We'll be back at quarter after 1. 4 MR. RONAN: Thank you, Your Honor. 13:20 5 THE COURT: All right. 6 MR. RONAN: Your Honor, may counsel 7 address the Court with respect to plaintiff's 8 application for a prejudgment remedy? 9 THE COURT: Yes. 13:20 10 MR. RONAN: Your Honor, during the break 11 Mr. Pastore and I have had some discussions, and I have 12 heard from Mr. Pastore that his client is willing to 13 make representation that he has no assets that are 14 subject to attachment in the state of Connecticut. 13:20 15 Under the circumstances, counsel feel it's wise not to 16 tie up this court or these witnesses with further 17 proceedings unless and until I discover or counsel 18 discloses that there would be something that could be 19 subject to attachment in this case. We have another 13:20 20 agreement with respect to that -- Mr. Pastore, I guess, 21 has to make the representation on the record on behalf 22 of his client. 23 MR. PASTORE: Your Honor, I do make the 24 representation that in discussions with my client it's 13:20 25 my understanding he's committed to me there's no assets</p>	<p>1 prejudice. 2 MR. RONAN: If prejudice means that we 3 would not have been entitled to it or could not have 4 shown that we would be entitled to it, then, Your Honor, 13:20 5 no, but with prejudice to our making an agreement on 6 this record that I won't bring it again, yes, Your 7 Honor. 8 THE COURT: Okay, that's what I mean, the 9 latter. 13:21 10 MR. RONAN: Thank you, Your Honor. 11 THE COURT: Having sat through this for 12 how many days? 13 MR. RONAN: Many, many hours, Your Honor. 14 THE COURT: Yes. All right. So that 13:21 15 leaves the motion with respect to the stay pending? 16 MR. PASTORE: That's correct, Your Honor. 17 THE COURT: Well, I suppose I'll have to 18 look at that. I mean is there some incongruity between 19 you on one hand asking for a stay and on the other hand 13:21 20 asking for a settlement conference? 21 MR. PASTORE: I don't think there's an 22 incongruity between the settlement conference and the 23 stay, Your Honor, because you can settle part of the 24 claims in the case that may not affect the bankruptcy. 13:21 25 THE COURT: Well, we'll have a settlement</p>
Page 341	Page 343
<p>1 in the state of Connecticut subject to attachment. The 2 other part of the agreement is that we've requested, as 3 we have continuously in this case, a settlement 4 conference before a federal magistrate, and Mr. Ronan 13:20 5 has agreed within -- we've requested a settlement 6 conference within the reasonable near future, as the 7 court can be available, with a federal magistrate, as a 8 condition to accepting the withdrawal of the PJR. 9 THE COURT: Wait a minute, as a condition 13:20 10 to accepting the withdrawal? 11 MR. PASTORE: I don't mean -- 12 THE COURT: You're withdrawing your PJR? 13 MR. RONAN: We're withdrawing our PJR, 14 Your Honor. 13:20 15 THE COURT: I don't know if I'm going to 16 accept it as a withdrawn PJR. I mean this just, you 17 have relegated unto yourself the power to bring it back 18 to life and resuscitate it at any point you want thereby 19 giving you control over my schedule, is that what you're 13:20 20 intending to do? I mean what's the -- 21 MR. RONAN: No, Your Honor, that was. 22 THE COURT: You no longer are pursuing 23 the PJR? 24 MR. RONAN: Yes, Your Honor. 13:20 25 THE COURT: And it's withdrawn with</p>	<p>1 conference this afternoon. Okay? 2 MR. PASTORE: Fine with me, Your Honor. 3 I think Mr. Ronan would prefer to have it with a 4 different magistrate only because you've heard the case. 13:22 5 THE COURT: Would you prefer to have it 6 with someone else? 7 MR. RONAN: Your Honor, you've heard half 8 the case, we're pulling back before you've heard the 9 rest of it, and that's why we felt that -- 13:22 10 THE COURT: No hard feelings at all. 11 MR. RONAN: Your Honor, you've sat 12 through a lot of this, we'd like you to hear the rest of 13 it, and maybe some day if we settle it we'll have a chat 14 about it, but Your Honor -- 15 THE COURT: I doubt that, Mr. Ronan. 16 MR. RONAN: I can understand Your Honor's 17 point of view. 18 THE COURT: So the application without 19 objection is withdrawn. 13:22 20 MR. PASTORE: Thank you, Your Honor. 21 THE COURT: I will get to the pending 22 motion, which I've looked at the docket sheet in this 23 case, and this case was referred to me for all purposes 24 before the motion for the stay was pending. I don't 13:22 25 know if the motion for a stay would fall within the</p>

29 (Pages 340 to 343)

Brandon Smith Reporting Service, LLC

255b821b-a2f0-4cc9-828a-f3eff22b3467

Saylavee v. Hockler

Hearing

10/5/2005

Page 230

CERTIFICATE

I, WENDY J. ALLEN, Registered Professional Reporter, do hereby certify that the foregoing testimony is a true and accurate transcription of my stenographic notes to the best of my knowledge and ability.

WITNESS MY HAND this 17th day of October, 2005.

Wendy J. Allen, RPR

59 (Page 230)

Brandon Smith Reporting

57fb2824-2a3c-4e0c-8c08-2dc800d79120

# **EXHIBIT J**

Saylavee, LLC v. Hockler, et al.

February 15, 2005

Page 1

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF CONNECTICUT

-----X  
SAYLAVEE, LLC and STEVEN LICHTMAN,  
PLAINTIFF,

vs.

CIVIL ACTION NO.:  
3:04 CV 1344 (CFD)

SCOTT B. HOCKLER, d/b/a DUCKY  
INTERACTIVE, INC. and DUCKY  
INTERACTIVE, LLC,

DEFENDANT.  
-----X

DUCKY INTERACTIVE, INC. and  
SCOTT B. HOCKLER,

PLAINTIFF,

vs.

CIVIL ACTION NO.:  
3:04 CV 1500 (PCD)

SAYLAVEE, LLC and STEVEN LICHTMAN,

DEFENDANT.  
-----X

D E P O S I T I O N

The deposition of HOLLY WEISMANN was taken pursuant to notice at the law offices of Pullman & Comley, 300 Atlantic Street, Stamford, Connecticut, before Viktoria V. Stockmal, license #00251, a notary public in and for the State of Connecticut, on Tuesday, February 15, 2005, at 10:02 a.m.

SANDERS, GALE & RUSSELL  
203-824-4157



Saylavee, LLC v. Hockler, et al.

February 15, 2005

Page 138	Page 140
<p>1 A No.</p> <p>2 Q Has Mr. Hockler ever told you about having a</p> <p>3 studio in Mount Kisco, New York; where he lives?</p> <p>4 A When you -- excuse me. Can we go back.</p> <p>5 Q Go ahead.</p> <p>6 A When you said New York, are you talking</p> <p>7 about New York City or -- that's what I thought you were</p> <p>8 talking about.</p> <p>9 Q I was trying to clarify that. Let me try</p> <p>10 and ask you another question.</p> <p>11 A Okay.</p> <p>12 Q Has Mr. Hockler ever told you anything about</p> <p>13 having an interest in a fitness studio in Mount Kisco,</p> <p>14 New York?</p> <p>15 A Yes.</p> <p>16 Q What did Mr. Hockler tell you about that?</p> <p>17 A One of the studios that he has in Mount</p> <p>18 Kisco.</p> <p>19 Q Has he ever told you what he paid for that</p> <p>20 studio?</p> <p>21 A No.</p> <p>22 Q Have you ever visited that studio?</p> <p>23 A Never.</p> <p>24 Q Has he ever told you that, until recently,</p> <p>25 he took classes at that studio?</p>	<p>1 go to the exercise studios?</p> <p>2 MS. BRAXTON: Objection.</p> <p>3 BY THE WITNESS:</p> <p>4 A I exercise at home.</p> <p>5 Q Are there any continuing discussions about</p> <p>6 you going to work for Mr. Hockler or one of his</p> <p>7 companies?</p> <p>8 A Not at this time.</p> <p>9 Q Where does that stand? Is there an offer</p> <p>10 out to you or -- could you tell us where that stands?</p> <p>11 MR. HIGGINS: Objection. I'm going</p> <p>12 to object here and I'm going to request, although not</p> <p>13 instruct, because I don't represent this witness, but</p> <p>14 that she not answer at that question. I don't see how</p> <p>15 this is a license for you to inquire as to this</p> <p>16 witness or anyone else as to any of Mr. Hockler's</p> <p>17 business interests. And I've sat here and I've given</p> <p>18 you the widest possible berth to ask all of your</p> <p>19 questions, no matter how far removed from the</p> <p>20 substance of this case. But I think this is where</p> <p>21 it's so far over the line.</p> <p>22 MS. BRAXTON: I'll accommodate and</p> <p>23 instruct her not to answer.</p> <p>24 MR. HIGGINS: I object. I think it's</p> <p>25 outside the scope of permissible discovery. And I'm,</p>
Page 139	Page 141
<p>1 A No.</p> <p>2 Q Do you know where Mr. Hockler lives?</p> <p>3 A I know his address.</p> <p>4 Q Have you ever been to that house?</p> <p>5 A No.</p> <p>6 Q Has Mr. Hockler ever told you that he takes</p> <p>7 fitness classes at the studios with his wife, Pam Stone?</p> <p>8 A No.</p> <p>9 Q I think the answer was no, correct?</p> <p>10 A No.</p> <p>11 MS. BRAXTON: Objection.</p> <p>12 BY MR. RONAN:</p> <p>13 Q Have you ever met Pam Stone?</p> <p>14 A Yes.</p> <p>15 Q On how many occasions have you met Pam</p> <p>16 Stone?</p> <p>17 A Once.</p> <p>18 Q Where was that?</p> <p>19 A While I was crossing a street in New York.</p> <p>20 City.</p> <p>21 Q I asked you before about the Connecticut</p> <p>22 studios. Have you ever been to the Mount Kisco exercise</p> <p>23 studio?</p> <p>24 A Never.</p> <p>25 Q Is there any particular reason why you don't</p>	<p>1 again, requesting her, although I have no business</p> <p>2 instructing her, not to answer that question.</p> <p>3 MS. BRAXTON: I will instruct her not</p> <p>4 to answer.</p> <p>5 MR. RONAN: Okay, whether or not this</p> <p>6 witness has received an offer to work for one of Mr.</p> <p>7 Hockler's companies for the amount of \$500,000 as she</p> <p>8 may have told other people is something which goes to</p> <p>9 the bias of this witness who arrived in the company of</p> <p>10 Mr. Hockler and a close friend's police officer friend</p> <p>11 from New Bedford at my offices. There's a close</p> <p>12 relationship there and it goes to bias. That's why</p> <p>13 I've asked the question. It's a simple yes or no.</p> <p>14 MR. HIGGINS: It's not while you</p> <p>15 asked the question.</p> <p>16 MS. BRAXTON: It's --</p> <p>17 (People spoke at the same time.)</p> <p>18 MR. HIGGINS: You established they</p> <p>19 are close personal friends. You established that in</p> <p>20 many, many different contexts. Nobody disputes that.</p> <p>21 That's not a serious question. I don't believe that</p> <p>22 that gives you a license to ask her about anything</p> <p>23 possible relating to Mr. Hockler, relating Mr.</p> <p>24 Hockler's business. Whether or not it has any</p> <p>25 relevance to this case, under the guise of bias.</p>

36 (Pages 138 to 141)

SANDERS, GALE & RUSSELL  
203-624-4157



Saylavee, LLC v. Hockler, et al.

February 15, 2005

Page 170	Page 172
<p>1 not-going to let you continue. 2 MR. RONAN: Counsel is now going to 3 find out that I am adjourning these proceeding with no 4 more questions for this witness at this time until we 5 seek Court orders requiring her to comply with the 6 subpoena that was delivered to her which requires her 7 to testify fully and fairly in connection with the 8 matter before the Court. 9 MS. BRAXTON: Mr. Ronan -- 10 MR. RONAN: Each one of the questions 11 that I have given to the witness was calculated -- 12 MS. BRAXTON: I demand -- 13 MR. RONAN: -- to lead to the 14 discovery of admissible evidence and therefore -- 15 MS. BRAXTON: Do you have any further 16 questions of this witness? 17 MR. RONAN: Yes, I do. 18 MS. BRAXTON: Then please put them on 19 the record right now. 20 MR. RONAN: You have interrupted me 21 in connection with the -- 22 MS. BRAXTON: No, I haven't. 23 MR. RONAN: -- last three questions 24 that I put to the witness and the court reporter can 25 testify to that. You have interrupted these</p>	<p>1 actually says nothing about going to look at houses. 2 And that nothing in this complaint says anything about 3 going to look at houses. And that those questions, 4 like so many other in this deposition, have nothing to 5 do with what the causes of action are in this 6 complaint. This complaint is over 40 pages mostly of 7 side show stuff that has nothing to do with what your 8 client's complaint is against Mr. Hockler. 9 You have brought this witness in and 10 kept her all day by asking her questions that are way 11 far afield of what this cause of action is. Now I 12 suggest that you ask her everything else that you have 13 so that we can have a nice clean motion before the 14 court and figure out exactly what else needs to be 15 done with this witness. 16 MR. RONAN: We're adjourned. 17 THE WITNESS: You know something, how 18 predictable could that have been. 19 MR. RONAN: Let's go off the 20 record -- 21 MR. HIGGINS: Before we go off the 22 record, I just want to say, if there are further Court 23 orders regarding additional documents that need to be 24 produced or regarding additional questions that need 25 to be answered or questions that have been asked that</p>
Page 171	Page 173
<p>1 proceedings and even dropped down to throwing 2 documents at me. 3 MS. BRAXTON: No, I haven't. 4 MR. RONAN: We will be back here to 5 pursue with this witness -- 6 MS. BRAXTON: Attorney Ronan -- 7 MR. RONAN: We will be back here -- 8 MS. BRAXTON: -- you are harassing 9 this witness. 10 MR. RONAN: We will be back here -- 11 No, Counsel, you are. 12 MS. BRAXTON: You are. 13 MR. RONAN: We will be back here to 14 pursue with this witness the documents that she has 15 failed to search for adequately and to bring to this 16 deposition. We'll be back here to review with this 17 witness the questions which the Court requires her to 18 answer and the questions which follow from those. 19 MS. BRAXTON: Attorney Ronan -- 20 MR. RONAN: And the questions which 21 follow from the documents that this witness -- 22 MS. BRAXTON: I want the record to 23 reflect -- I want the record to reflect -- 24 MR. RONAN: Please do. 25 MS. BRAXTON: -- that this paragraph</p>	<p>1 were not answered, so be it. But I -- our position is 2 going to be that any further questioning of this 3 witness is going to be limited to that and it's not -- 4 to the extent you have other questions, you need to 5 ask them now. 6 MS. BRAXTON: If you have any new 7 questions, I suggest you ask them now and if there are 8 objections, we can resolve them with a Court. But you 9 will not be able to come back and ask her a bunch of 10 new questions that haven't been addressed. 11 MR. RONAN: We are adjourned. 12 THE VIDEOGRAPHER: Going off the 13 record at 3:04. 14 15 * * * * * 16 17 18 19 20 21 22 23 24 25</p>

44 (Pages 170 to 173)

SANDERS, GALE & RUSSELL  
203-624-4157

# **EXHIBIT K**

RETURN DATE: : SUPERIOR COURT  
PULLMAN & COMLEY, LLC : JUDICIAL DISTRICT OF STAMFORD/NORWALK  
V. : AT STAMFORD  
STEVEN LICHTMAN, ET AL : July 5, 2006

**COMPLAINT**

**First Count:**

1. The plaintiff, Pullman & Comley, LLC, is a law firm with a place of business of 850 Main Street, Bridgeport, Connecticut. The transactions described herein are commercial in nature.
2. Upon information and belief, at all times mentioned in this complaint, the defendant Steven Lichtman was a individual with a residence at 15 Andrews Farm Road, Greenwich, Connecticut.
3. Upon information and belief, at all times mentioned in this complaint, the defendant Saylaway, LLC was a limited liability company with a place of business c/o Renaissance Ventures, One Soundshore Drive, Suite 305, Greenwich, Connecticut 06830.
4. The plaintiff and the defendants entered into an agreement under the terms of which the plaintiff agreed to represent the defendants in connection with a partnership dispute in exchange for compensation. A copy of the agreement is attached as Exhibit A. The Plaintiff will refer to Exhibits A as the "Agreement."
5. Pullman & Comley, LLC performed all the conditions of the Agreement on its part.
6. There is justly due and owing to the plaintiff under the terms of the Agreement the sum of